

REMARKS/ARGUMENTS

Claims 1-13 and 16-29 are pending, wherein claims 1, 10 and 27-29 have been amended. No claims were added or cancelled.

The Office Action rejects claims 1-8 and 20-25 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,310,958 to O'Conner. Claim 1 has been amended to recite an embodiment of a child restraint device comprising "opposing handles" and "attachment means ... configured so that at least one handle lies next to a child's body or clothing while the restrain device is worn so that a hand gripping the handle remains close to the child's body during use." Support for this embodiment is shown in Figures 9-13 and 17A-18B. The purpose of positioning at least one handle next to the child's body or clothing so that a hand gripping the handle remains close to the child's body is to maintain more firm control of the child's body so as to prevent inadvertent turning, flopping or falling of the child out of the intended position. This, in turn, better prevents potential injury to the child. Handles that have a high degree of freedom (*i.e.*, that are spaced apart from a child's body by a flexible tether of significant length) make it much more difficult for a person gripping the handles to hold and maintain the child in a desired, safe position.

O'Conner discloses a safety harness for children which includes a body strap 1 that wraps around a child's body, ring or loop attaching slides 17 attached to body strap 1, spring hooks 19 that clip onto and form a loose connection with slides 17 on one side and that are connected to retaining straps 18 on an opposite side. Because spring hooks 19 and slides 17 intervene between straps 18 and body strap 1, neither of straps 18 lie next to a child's body or clothing during use but are spaced apart from the child's body by a distance roughly equal to the combined distance provided by the spring hooks 19 and slides 17. The spring hooks 19 and slides 17 form a flexible tether of significant length having multiple degrees of freedom. The result is a harness that cannot be gripped by a person in order to reliably maintain a child in a desired position (*i.e.*, a hand gripping the straps 18 of the O'Conner device will not "remain[] close to the child's body during use"). Instead, both of handles 18 will be disposed during use in much the same way as handle 51 shown in Figure 3 of U.S. Patent No. 6,125,792 to Gee (discussed below). In view of the foregoing, Applicant submits that claim 1, as amended, is not anticipated by O'Conner.

Moreover, it would not have been obvious to alter the O'Conner device by removing spring hooks 19 and slides 17 and attaching straps 18 directly to body strap 1 in order for a hand gripping the straps 18 to remain "close to the child's body during use". That is because the O'Conner device is not designed for a person to grip the handles 18 so as to maintain a child in a balanced position. Instead, the O'Conner device "has for its object . . . a novel device . . . which will securely hold a child against accidental falling from a crib, a chair or carriage and which will not be liable to become detached from the body of the crib. Col. 1, lines 9-17 (emphasis added). Thus, "the retaining straps 18 may be looped about the sides of the crib, chair or carriage, or attached to the side-rails of a bed and thus prevent the child from falling or rolling from a bed." Col. 2, lines 75-79 (emphasis added). Because the O'Conner device is specifically intended and designed for use in attaching the harness to a crib, chair, carriage or bed, the flexible tether comprising spring hooks 19 and slides 17 that allows for significant freedom of movement of the child is not only desirable but important in order for the O'Conner to carry out its intended purpose. See MPEP § 2143.01. Removing the spring hooks 19 and slides 17 in order for both handles 18 to lie next to the child's body or clothing would yield a device that is not only uncomfortable to the child but potentially dangerous so as to harm the child if attached to a crib, chair, carriage or bed for a significant length of time. Applicant therefore submits that claim 1, as amended, is non-obvious over O'Conner, either alone or in combination with any other art of record. For at least the reasons given above, the claims that depend from claim 1 are likewise patentable over O'Conner, either alone or in combination with any other art of record.

Claim 20 recites a specific method that is neither taught nor suggested in O'Conner. As discussed above, O'Conner discloses a device that is designed to be used to restrain a child within a crib, chair, carriage or bed. Col. 1, lines 9-17; col. 2, lines 75-79. O'Conner never teaches or suggests using the disclosed harness to assist in giving a child a bath. As a result, O'Conner clearly fails to teach or suggest a method that includes the acts of (1) "releasably attaching a handle to the child so that the handle is positioned at or near a central balancing plane of the child's body between the child's head and buttocks" and (2) "gripping the handle so as to hold or restrain the child in at least one of a sitting, standing or upright position within a container or basin that holds therein a quantity of water". Applicant also points out that Campbell is the only cited reference to disclose a device that could be used to assist a child in water, albeit a pool not a bathtub. However, the Campbell device includes a long leash 14 rather

than a handle attached to a child's body. Accordingly, Applicant submits that claim 20, as well as the claims that depend therefrom, are neither anticipated by, nor obvious over, O'Conner, either alone or in combination with Campbell or any other art of record.

The Office Action rejects claims 17 and 28 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,027,833 to Calkin. Because claim 17 depends from claim 10, it defines a child restraint device that includes a handle that is positioned "adjacent to the spine, sternum, stomach or chest of the child's body" during use. Calkin, in contrast, discloses an extrication and spinal restraint device for use in emergency rescues that includes a pair of spaced-apart handles, each positioned to the side of the person's spine. None of the handles are positioned "adjacent to the spine, sternum, stomach or chest of the child's body" during use. As such, the device of Calkin does not provide the same careful balance as is provided by the device of claim 10. Gripping any one of the handles of the Calkin device would cause an inherent imbalance, as discussed throughout the application. Both handles positioned on either side of the spine would have to be gripped simultaneously in order to create a balanced system. That is contrary to the device of claim 10, which defines a device in which a single handle is positioned in a manner so as to provide proper balance. Accordingly, Applicant submits that claim 10, as well as claim 17 depending therefrom, is neither anticipated by nor obvious over Calkin, either alone or in combination with any other art of record.

Claim 28 similarly defines a child restraint device that includes a handle that is "positioned adjacent to the spine, sternum, stomach or chest" of a child during use. As discussed above, the Calkin device includes pairs of handles but no single handle that is "adjacent to the spine, sternum, stomach or chest of the child's body" during use. Accordingly, Applicant submits that claim 28, is neither anticipated by nor obvious over Calkin, either alone or in combination with any other art of record.

The Office Action rejects claims 9-13, 16, 18, 19, 26 and 27 under 35 U.S.C. § 103(a) as being unpatentable over O'Conner in view of U.S. Patent No. 5,766,114 to Campbell. Claim 9 depends from claim 1 and is therefore patentable for the reasons given above. Claim 10 was amended to recite a child restraint device that includes a handle that is positioned "next to the child's body or clothing . . . so that a hand gripping the handle remains close to the child's body when the restraint device is in use". As discussed above, the O'Conner device is specifically intended and designed for use in attaching the harness to a crib, chair, carriage or bed. The

spring hooks 19 and slides 17 that permit significant freedom of movement of the child also means that both of handles 18 are spaced apart from the child's body during use rather than "next to the child's body or clothing" as required by claim 10. To modify the O'Conner device by removing the spring hooks 19 and slides 17 would render it unsuitable for its intended use, which is unobvious as a matter of law according to MPEP § 2143.01. That is because removing the spring hooks 19 and slides 17 so that both handles 18 lie next to the child's body or clothing would yield a device that could potentially harm the child if attached to a crib, chair, carriage or bed for a significant length of time. Because the Campbell device includes a long leash 14, the combination of O'Conner and Campbell actually leads away from the child restraint device defined in claim 10. As a result, claim 10, as well as the claims that depend therefrom, are unobvious over the combination of O'Conner and Campbell.

In rejecting claim 26, the Office Action alleges that Campbell discloses the use of the disclosed device in a bathtub. However, a word search of Campbell using the official PTO website revealed that the words "bath", "tub" and "bathtub" do not appear in Campbell. Therefore, the Office Action appears to be in error in its allegation such that it fails to state a *prima facie* obviousness rejection of claim 26.

Claim 27 was amended to recite a restraint device that includes "a releasable handle positioned next to the child's body or clothing at or near a central balancing plane of the child's body so that a hand gripping the handle remains close to the child's body when the restraint device is in use". As discussed above, O'Conner neither teaches nor suggests a restraint device having this feature. Moreover, Campbell discloses a device having a long leash 14. Therefore, claim 27 is unobvious over the combination of O'Conner and Campbell

The Office Action rejects claim 29 under 35 U.S.C. § 103(a) as being unpatentable over O'Conner in view of U.S. Patent No. 6,125,792 to Gee. Claim 29 was amended to recite a child restraint device that includes "a handle attached to the corset or harness in a manner so that the handle is positioned next to the child's body or clothing . . . so that a hand gripping the handle remains close to the child's body when the restraint device is in use". As discussed above, O'Conner neither teaches nor suggests this feature. Moreover, it would render the O'Conner device unsuitable for its intended function of loosely attaching a child in a safe manner to a crib, chair, carriage or bed if it were modified so as to include handle as recited in claim 29. Finally, the Gee device also discloses a device that includes a handle 51 that is positioned so as to be

spaced apart from the child's body a substantial distance during use (*see* Figure 3). As such, the combination of O'Conner and Gee neither teaches nor suggests a restraint device according to claim 29.

In view of the foregoing, Applicant respectfully requests favorable reconsideration and allowance of the present claims. In the event that the Examiner finds any remaining impediment to the prompt allowance of this application, which could be clarified by a telephonic interview, or which is susceptible to being overcome by means of an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney/applicant.

Dated this 25th day of January 2005.

Respectfully submitted,



John M. Guynn
Applicant
Registration No. 36,153
(801) 533-9800

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